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FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/11
LAST UPDATED 03/12/11 **HB** 202/aHCPAC
SPONSOR Strickler
SHORT TITLE Private School Student Activity Program Unit **SB** _____
ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	None		

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriations in the General Appropriations Act. Amount of appropriation will not change, however the unit value may be decreased.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of HCPAC Amendment

House Consumer & Public Affairs Committee amendment to House Bill 202 defines “activities” as athletics, co-curricular and extracurricular activities sanctioned by the New Mexico Activities Association.

Synopsis of Original Bill

House Bill 202 enacts a new section of the Public School Finance Act to establish a private school student activities program unit in the public education funding formula.

FISCAL IMPLICATIONS

House Bill 202 will allow a school district to receive program units for private school students that are participating in school district activities governed by the New Mexico Activities Association (NMAA). Program units will be calculated by multiplying the number of participating private school students by a cost differential of 0.1. While it is difficult to estimate

the exact number of private school students who might be eligible to generate program units under this bill, PED indicates this would have a small impact on the funding formula. PED based its analysis on the number of charter school student activities program units and home school student activities program units currently generated. There are currently 75 charter school students and 23 home school students participating in district athletic activities governed by the NMAA. Multiplied by the current combined unit value of \$3712.17, school districts are receiving a total distribution of \$27,841.24 for charter school student activities units and \$8,538 for home school student activities units.

The figures provided by PED are for athletic activities only. The bill allows program units to be generated for both interscholastic and athletic. It is difficult to estimate the number of private school students that will participate in school district activities governed by the NMAA. Units will only be generated for private school students participating in NMAA governed activities that the student's private school does not offer. Even if the number of private school students participating in NMAA governed activities is closer to the number of charter school students currently participating in athletics, there should be little effect on the unit value.

SIGNIFICANT ISSUES

House Bill 202 establishes a new program unit for private school students who are participating in school district activities governed by NMAA. Private school students are granted eligibility to participate in three school district activities at the public school in the attendance zone in which the student resides. The private school student may only participate in activities that the student's private school does not offer. The school district will be required to verify each private school student's academic eligibility. The school district will receive 0.1 private school student activities units per student participating.

The NMAA website and handbook distinguishes between athletics and activities (interscholastic), and as such it is unclear whether this bill will limit private school students to participating in interscholastic activities only.

NMAA is a private/non-profit organization whose principle purpose is the regulation, direction, administration and supervision of interscholastic activities in the State of New Mexico. The NMAA is a membership led organization comprised of New Mexico public and private middle/junior high and senior high schools. Member schools have an active voice in establishing all rules and regulations in regards to interscholastic activities and athletics.

NMAA governs the following interscholastic activities: Athletic Training Challenge, Bowling, Business Pros of America, Chess, Choir, Concert Band, DECA Marketing Education, Drama/One Act Play, English Expo, FCCLA (Family, Career and Community Leaders of America), FFA Agriculture Education, HOSA (Health Occupations Student Association), JROTC, Mock Trial, Rodeo, Scholastic Publications, Science Fair, Science Olympiad, Skills USA, Speech and Debate, Student Council and TSA (Technology Student Association).

NMAA governs the following athletic activities: Baseball; Basketball; Cross Country; Football; Golf; Soccer; Softball; Sprint; Swimming and Diving; Tennis; Track & Field; Volleyball; and Wrestling.

PED notes that this bill provides for the preferential treatment and support of private school student participation in activities that are not similarly provided for regular public school students. In other words, a public school student currently enrolled in a (non-charter) public school is not eligible to participate in another school or another school district's activities—even if the public school they attend does not offer that activity.

The Public School Finance Act currently includes charter school student and home school student activities program units with a cost differential factor of 0.1 to reimburse districts for charter school and home school student participation in district activities limited to athletic activities.

ADMINISTRATIVE IMPLICATIONS

PED will be responsible for monitoring implementation of the legislation, including verifying the number of program units generated.

The New Mexico Activities Association (NMAA) would be responsible for developing guidelines for implementation of this legislation.

School districts will need to develop procedures for the implementation of this bill to include: verifying a student's attendance zone, determining that the school district's activity is one that the student's private school does not offer, keeping track of the number of school district activities each student participates in (so as to not exceed the cap of three), and verifying the private school student's academic eligibility to participate.

OTHER SUBSTANTIVE ISSUES

PED noted liability issues in their analysis, and questioned whether a student would be covered by the school district's insurance policy through the New Mexico Public Insurance Authority (NMPSIA, or Albuquerque Public School's insurance policy (APS is self insured). PED also noted that districts might be required to purchase an add-on rider to cover private school students who would not be enrolled in the district.

PED also provided the following analysis:

HB202 may run counter to the state's anti-donation clause (Article IX, Section 14 of the state's constitution).

Even though HB202 does not mention faith-based/religious schools, state benefits provided to students attending private faith-based schools would be an unintended consequence of this bill.

Aligned with the Blaine Amendment is yet another constitutional prohibition that appears at Article IV, Section 31. This amendment prohibits appropriations to be made for educational purposes to a person or corporation or institution that is not under the absolute control of the state. Private schools are not under the absolute control of the state. Although HB 202 does not make a direct appropriation to a private school, the counter argument will be that identifiable general funds will be directed to school districts by reason of a head count of private school students participating in public school activities.

It is because students enrolled in private religious schools would be directly benefited that makes HB 202 problematic.

RSG/svb:mew